



The Attorney General of Texas

February 1, 1982

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J. C. Littrell, DPM
Texas State Board of Podiatry
Examiners
P. O. Box 3041
Waco, Texas 76707

Opinion No. MW-435

Re: Whether podiatrist may
administer nitrous oxide to
patients

Dear Dr. Littrell:

You have inquired as to whether a licensed podiatrist may administer nitrous oxide to patients in connection with his practice. Nitrous oxide, also known as "laughing gas," is used as an anesthetic.

Articles 4567c and 4573, V.T.C.S., address this issue. As originally enacted, the predecessor of article 4567c read as follows:

No chiropodist shall amputate the human foot or toe or toes or use any anesthetic other than local.

Acts 1923, 38th Leg., ch. 169, §2, at 357. This article was amended in 1951 to delete the words "or use any anesthetic other than local." Acts 1951, 52nd Leg., ch. 132, at 224. It appears that by this amendment the legislature intended to allow podiatrists to use general anesthetics. See V.T.C.S. art. 4567a (changing word "chiropodist" to "podiatrist" in licensing act). This conclusion is bolstered by the legislature's amendment of article 4573, V.T.C.S., in 1971. Prior to 1971, article 4573 read as follows:

The board may, after due hearing, refuse to grant or renew and may revoke any license issued under the provisions of this law to a person, otherwise qualified,... who may be convicted of amputating the human foot or toe or of using an anesthetic other than local....

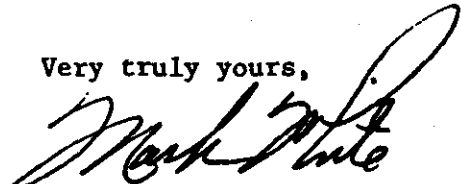
V.T.C.S. art. 4573 (1925). The 1971 amendment deleted the words "or of using an anesthetic other than local" from this statute. Based on these amendments, we conclude that a licensed podiatrist may administer nitrous oxide to patients in connection with his practice. However, persons who administer anesthetics such as nitrous oxide are subject to liability for injuries caused a patient by their negligent

administration thereof. See generally Webb v. Jorns, 488 S.W.2d 407 (Tex. 1972).

S U M M A R Y

A licensed podiatrist may administer nitrous oxide to patients in connection with his practice.

Very truly yours,



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